

**§ 575.306**

**5 CFR Ch. I (1-1-01 Edition)**

not sufficient to justify a retention allowance. Performance level may function as a supporting factor in authorizing an allowance or setting the allowance rate only to the extent it directly relates to the conditions in paragraph (d)(1)(i).

(2) Upon the request of the head of an agency, OPM may approve a retention allowance in excess of 10 percent, but not more than 25 percent, of an employee's rate of basic pay for a group of category or employees which meets the conditions specified in paragraph (d)(1) of this section. OPM may require that such requests be coordinated with other agencies having similarly situated employees in the same category. Group retention allowance requests must include—(i) A description of the group or category and number of employees to be covered by the proposed retention allowance;

(ii) A written determination that the group or category or employees meets the conditions specified in paragraph (d)(1) of this section;

(iii) The proposed percentage retention allowance payment and a justification for that percentage;

(iv) The expected duration of retention allowance payments; and

(v) Any other information pertinent to the case at hand.

(3) All other conditions and requirements for payment under this subpart must be met before a retention allowance may be paid to any individual employee under paragraphs (d)(1) or (d)(2) of this section.

[56 FR 12838, Mar. 28, 1991, as amended at 60 FR 33327, June 28, 1995; 63 FR 34121, June 23, 1998; 64 FR 71634, Dec. 22, 1999]

**§ 575.306 Payment of retention allowance.**

(a) A retention allowance shall be calculated as a percentage of the employee's rate of basic pay (not to exceed 25 percent) and paid in the same manner and at the same time as basic pay—i.e., the allowance shall be paid at an hourly rate for each hour during which the employee receives basic pay. It shall not be considered part of an employee's rate of basic pay for any purpose.

(b) The head of an agency may not authorize a retention allowance for an

employee if or to the extent that such an allowance, when added to the employee's estimated aggregate compensation, as defined in § 530.202 of this chapter, would cause the aggregate compensation actually received by the employee during the calendar year to exceed the rate payable for level I of the Executive Schedule at the end of the calendar year.

(c) Except as provided in § 575.307(a) of this part, an agency may continue payment of a retention allowance as long as the conditions giving rise to the original determination to pay the allowance still exist. However, at least annually, each determination to pay an allowance shall be reviewed by the agency to determine whether the payment is still warranted, and this determination shall be certified in writing by the approving official.

(d) A retention allowance is not pay for purposes of a lump-sum payment for annual leave under 5 U.S.C. 5551 or 5552.

[56 FR 12838, Mar. 28, 1991, as amended at 58 FR 50249, Sept. 27, 1993; 60 FR 33327, June 28, 1995]

**§ 575.307 Reduction or termination of retention allowance.**

(a) The agency must reduce or terminate the authorized amount of a retention allowance to the extent necessary to ensure that the employee's estimated aggregate compensation, as defined in § 530.202 of this chapter, does not exceed the rate for level I of the Executive Schedule at the end of the calendar year.

(b) The head of an agency may reduce or terminate payment of a retention allowance when it determines that—

(1) A lesser amount (or none at all) would be sufficient to retain the employee (or group or category of employees);

(2) Labor-market factors make it more likely (or reasonably likely) to recruit a candidate with qualifications similar to those possessed by the employee (or group or category of employees);

(3) The agency's need for the services of the employee (or group or category of employees) has been reduced to a